

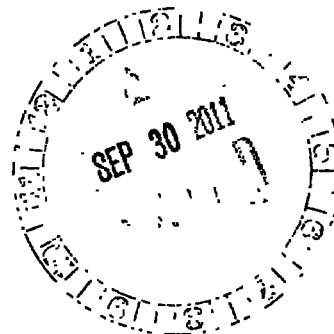


Department of Energy

Washington, DC 20585

September 30, 2011

Chairman Daniel R. Elliott III
Office of Chairman
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20420-0001



RE: Docket Nos. 38302S and 38376S

Dear Chairman Elliott:

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The order entered in these dockets July 27, 2005 (served August 2, 2005, and effective September 1, 2005), approving the Government's settlement agreement with Union Pacific Railroad Company, further held these proceedings in abeyance while directing the Government to file quarterly reports on the progress of settlement negotiations. The Government continues to pursue settlement with individual carriers and has been engaged in separate discussions with individual railroad defendants BNSF and Norfolk Southern.

We continue actively to pursue our settlement efforts with both BNSF and Norfolk Southern. While we are not yet able to report a completed agreement with BNSF, we continue to make progress on finalizing settlement documents to be presented for the Board's approval. We similarly are continuing efforts toward a settlement and finalized settlement documents with Norfolk Southern. We will file a further report by the end of December 2011.

Sincerely,

Stephen C. Skubel
Assistant General Counsel
For Litigation
(202) 586-5579

Office of the Chairman

SEP 30 2011

SEP 30 2011

cc: Vice Chairman Ann D. Begeman
Board Member Francis P. Mulvey

Attached Service List

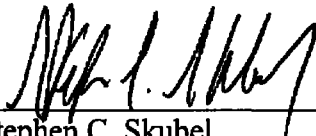


CERTIFICATE OF SERVICE

I, Stephen C. Skubel, hereby certify that I served a copy of the foregoing document by prepaid first-class mail this 30th day of September 2011, on the following:

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| Aberdeen & Rockfish R.R. Co. P.O. Box 917 Aberdeen, NC 28315 | Buffalo & Pittsburgh Railroad c/o Genesee & Wyoming, Inc. 66 Field Point Road Greenwich, CT 06830 |
| Montana Rail Link, Inc. 101 International Way Missoula, MT 59808 | James R. Paschall Greg E. Summy Norfolk Southern Railway Company Three Commercial Place Norfolk, VA 23510 |
| Michael L. Rosenthal Covington & Burling 1201 Pennsylvania Avenue, NW Washington, D.C. 20004-2401 | Jill Mulligan The Burlington Northern and Santa Fe Railway Company 2500 Lou Menk Drive, 3rd Floor Fort Worth, TX 76131 |
| Paul Hitchcock Associate General Counsel CSX Transportation, Inc. 500 Water Street - J150 Jacksonville, FL 32202 | Theodore K. Kalick Canadian National Railway Company 601 Pennsylvania Avenue, N.W. Suite 500 North Building Washington, D.C. 20004 |
| Chris Guzzi Deborah Sedaris Providence & Worcester Railroad Co. 75 Hammon Street Worcester, MA 01610 | Robert G. Culliford, Esq. Guilford Transportation System Iron Horse Park North Billerica, MA 01862 |
| Richard D. Robey, President North Shore Railroad Company 356 Priestly Avenue Northumberland, PA 17857 | J. Michael Hemmer Louise A. Rinn Union Pacific Railroad Company 1400 Douglas Road, Stop 1580 Omaha, NE 68179 |
| George H. Kleinberger P.O. Box 8002 Clifton Park, NY 12065 | Ronald E. Fittrow 500 Water Street Jacksonville, FL 32202 |

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| D.J. Lewis Director of Marketing Tuscola & Saginaw Bay Railway Company 308 West Main Street Matthews Building, Suite 303 Owosso, MI 48867 | Paul Guthrie Canadian Pacific Railway Company 401 9th Avenue, S.W. Gulf Canada Square, Suite 500 Calgary, Alberta T2P 4 Z4 Canada |
| Samuel M. Sipe, Jr. Carolyn D. Clayton Steptoe & Johnson LLP 1330 Connecticut Avenue, N.W. Washington, D.C. 20036 | Robert H. Wheeler General Counsel Wisconsin Chicago Link Ltd. 17641 Ashland Avenue Homewood, IL 60430 |
| Terence M. Hynes Sidley Austin Brown & Wood, LLP 1501 K Street, N.W. Washington, D.C. 20005 | Thomas J. Litwiler Fletcher & Sipple LLC 29 North Wacker Drive Suite 920 Chicago, IL 60606 |



Stephen C. Skubel